



REPUBLIC OF GHANA

GHANA DEPOSIT PROTECTION (AMENDMENT) ACT, 2018 (ACT 968)

ARRANGEMENT OF SECTIONS

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2. Section 3 of Act 931 amended
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THE NINE HUNDRED AND SIXTY-EIGHTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

GHANA DEPOSIT PROTECTION (AMENDMENT) ACT, 2018

AN ACT to amend the Ghana Deposit Protection Act, 2016 (Act 931), and to provide for related matters.

DATE OF ASSENT: 4th May, 2018

PASSED by Parliament and assented to by the President:

Section 1—Section 2 of Act 931 amended

The Ghana Deposit Protection Act, 2016 (Act 931), referred to in this Act as the "principal enactment", is amended by the substitution for section 2, of

2. "Establishment of the Scheme

(1) There is established by this Act, a Deposit Protection Scheme referred to in this Act as the "Scheme".

(2) The mandate of the Scheme is to be a pay-box."

Section 2—Section 3 of Act 931 amended

The principal enactment is amended in section 3 by the substitution for paragraph (b), of " (b) support the development of a safe, sound, efficient and stable market-based financial system in Ghana by ensuring prompt payouts to insured depositors on the occurrence of an insured event."

Section 3—Section 6 of Act 931 amended

The principal enactment is amended in section 6

(a) by the substitution for paragraph (a) of subsection (1), of

"(a) revoke the licence of the affected bank or specialised deposit-taking institution and

(i) in writing inform the bank or the specialised deposit-taking institution and the public immediately, of the revocation; and

(ii) require the bank or specialised deposit-taking institution to surrender its licence.";

(b) by the substitution for "Corporation" in the closing paragraph of subsection (3), of "institution in voluntary liquidation"; and.

(c) by the deletion of paragraphs (b) and (e) of subsection (4).

Section 4—Section 7 of Act 931 amended

The principal enactment is amended by the substitution for section 7 of

7. "Effect of cessation of membership

(1) Where a bank or specialised deposit-taking institution ceases to be a member of the Scheme under section 6, that bank or specialised deposit-taking institution is not relieved from its obligations or liabilities that accrued to the Corporation before the cessation of its membership of the Scheme.

(2) Where a bank or specialised deposit-taking institution ceases to be a member of the Scheme under section 6, the Corporation shall revoke the certificate of membership of the Scheme issued to the bank or specialised deposit-taking institution and that bank or specialised deposit-taking institution shall

(a) not assume, hold out or in any other way give the impression that the bank or specialised deposit-taking institution is a member of the Scheme; and

(b) surrender the membership certificate issued to that bank or specialised deposit-taking institution to the Corporation, and shall in the prescribed manner, notify

(i) depositors of that bank or specialised deposit-taking institution; and

(ii) the general public of the cessation of its membership.

(3) A bank or specialised deposit-taking institution shall, from the date of revocation of the licence and cessation of membership; not accept deposits from the public,

(4) A bank or specialised deposit-taking institution that contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units."

Section 5—Section 10 of Act 931 amended

The principal enactment is amended in subsection (1) of section 10

(a) by the substitution for paragraph (c) of

"(c) Fund "A" returns on investment of that Fund less an amount not exceeding twenty percent of the income for the year which may be appropriated to meet operational expenses of the Corporation;" and

(b) by the substitution for paragraph (d) of

"(d) Fund "B", returns on investment of that Fund less an amount not exceeding twenty percent of the income for the year which may be appropriated to meet operational expenses of the Corporation; and"

Section 6—Section 13 of Act 931 amended

The principal enactment is amended by the substitution for section 13 of

13. "Insurable deposits

With the exception of the following, a bank or specialised deposit-taking institution shall insure with the Scheme, deposits held at that bank or 'a specialised deposit-taking institution:

(a) a deposit for which a depositor has not been identified;

(b) a deposit that is frozen in compliance with an order of a court;

(c) a deposit that belongs to

(i) a director or a key management personnel;

- (ii) a director or a key management personnel who has worked with the bank or specialised deposit-taking institution for at least three years preceding the occurrence of the insured event;
- (iii) an accounting or audit firm, a partner of that accounting or audit firm, and a manager of that accounting or audit firm who is in charge of performing the external audit of the financial statements of the bank or specialised deposit-taking institution for at least the three years preceding the occurrence of an insured event; or
- (iv) a deposit that is used as a collateral for a loan or other obligation with the bank or specialised deposit-taking institution;
- (d) a deposit held in a bank or specialised deposit-taking institution by a financial institution, pension fund, retirement fund, insurance company, collective investment undertaking, local government, central government and administrative authority; and
- (e) a deposit held in a foreign branch of a bank or a specialised deposit-taking institution incorporated in Ghana, and a subsidiary of that bank or specialised deposit-taking institution operating in a foreign country.

Section 7—Section 15 of Act 931 amended

The principal enactment is amended in section 15 by the substitution for subsection (2) of "(2) The level of premium to be determined by the Corporation under subsection (1) ranges from zero-point-three to one-point five percent of the total deposits less the exceptions stated in section 13 of the Act at the end of the preceding year and may be different for Fund "A" and Fund "B"."

Section 8—Section 21 of Act 931 amended

The principal enactment is amended in section 21

(a) by the insertion after subsection (1), of

"(1A) An employee of the Corporation may, in consultation with the Bank of Ghana, enter the premises of the bank or specialised deposit-taking institution for the purpose of inspecting deposit-related records and activities of that bank or specialised deposit-taking institution."; and

(b) by an insertion after "penalty units" in the closing paragraph, of subsection (2) of "and fifty penalty units for each day that the offence continues".

Section 9—Section 24 of Act 931 amended

The principal enactment is amended by the substitution for section 24 of

24. "Functions of the Corporation

(1) To achieve its object, the Corporation shall

(a) require each member of the Scheme to submit to the Corporation, information or data relating to its operations;

- (b) determine details of the information required to be submitted by each member of the Scheme, the form in which the information is to be reported and the time or interval of time at which reporting is required;
 - (c) determine the levels of insurance premium for members of the Scheme and collect the premium from the members for the purpose of insuring the deposits;
 - (d) set the coverage limits for insured deposits;
 - (e) subject to this Act, invest the assets of the Scheme either directly or indirectly through an external asset manager;
 - (f) payoff insured depositors in accordance with this Act;
 - (g) cooperate with the Bank of Ghana in exchanging information relevant to the attainment of the objects of the Scheme;
 - (h) collaborate with international deposit insurance bodies;
 - (i) invest the moneys of the Protection Fund in securities approved by the Board in the investments as specified in section 41;
 - (j) borrow money to ensure the attainment of the objects of the Scheme, where the Corporation has insufficient funds, but shall not borrow from members of the Scheme;
 - (k) determine administrative sanctions to be imposed on a member of the Scheme in accordance with this Act;
 - (l) borrow money to finance the reimbursement of insured depositors upon the occurrence of an insured event if Fund "A" and Fund "B" are not sufficient, but shall not borrow from members of the Scheme;
 - (m) promote and undertake a sustained communication and public awareness of the deposit insurance system using various communication strategies, tools and outlets; and
 - (n) do any other thing incidental to the efficient performance of the functions specified in the preceding paragraphs.
- (2) Despite paragraph (n) of subsection (1), the Corporation shall not grant a credit or make a donation to any person.

Section 10—Section 25 of Act 931 amended

The principal enactment is amended in section 25 by the substitution for paragraphs (d) and (e) of subsection (1), of

- "(d) one representative of the Chartered Institute of Bankers, who is a chartered banker;
- (e) one representative of the Association of Ghana Industries;"

Section 11—Section 39 of Act 931 amended

The principal enactment is amended by the substitution for subsection (1) of section 39, of

"(1) A person who in the performance of a function or discharge of a duty comes into contact with confidential information concerning the business of the Corporation shall not disclose or permit the disclosure of that information, except where the disclosure is

- (a) with the express or implied consent of the Board;
- (b) required by law or by the order of a court of competent jurisdiction;
- (c) to the Auditors of the Corporation in the performance of their functions under the Act;
- (d) to the supervisory authorities of members of the Scheme or to public international financial institutions;
- (e) for the purpose of a legal proceeding in the interest of the Corporation; and
- (f) made to
 - (i) the Bank of Ghana,
 - (ii) a regulatory authority in Ghana or outside Ghana, or
 - (iii) other relevant authority in Ghana or outside Ghana in respect of information on the level of insured deposits, payment of insured deposits and other matters pertaining to the functions of the Corporation under this Act, to facilitate cooperation in the interest of maintaining the stability of the financial sector in Ghana."

Section 12—Section 40 of Act 931 amended

The principal enactment is amended by the substitution for section 40, of

40. "Sources of funds and expenses of the Corporation

- (1) The sources of funds for the Corporation are
 - (a) capital contributions from the Government and the Bank of Ghana and interest accruing from the investment of the capital contributions;
 - (b) moneys approved by Parliament;
 - (c) withdrawals from the Reserve Fund;
 - (d) grants received from the Government and donors;
 - (e) borrowings including issuance of securities; and
 - (f) other revenues payable to the Corporation in accordance with this Act.
- (2) The expenses of the Corporation shall be charged onto
 - (a) the income accruing from the investment of the capital of the Corporation; and
 - (b) not more than twenty percent of the income accruing on Deposit Protection Funds "A" and "B" in the reporting year.

Section 13—Section 53 of Act 931 amended

The principal enactment is amended in section 53

- (a) by the deletion of the definition of "member of family";
- (b) by the insertion after "ordinarily resident" of
"pay-box" means a deposit insurer who is only responsible for the reimbursement of insured deposits on the occurrence of an insured event.";
- (c) by the deletion of the definition of "reconstruction";
- (d) by the deletion of the definition of "scheme of arrangement".
- (e) "by the deletion of "accounts" in the definition of "depositor";
- (f) by the deletion of the definition of "eligible deposits";
- (g) by the deletion of the definition of insurable deposit"; and[sic]
- (h) by the deletion of "an event that necessitates" in the definition of "insured event";

Section 14—Section 54 of Act 931 amended

The principal enactment is amended by the substitution for section 54, of

54. "Transitional provisions

- (1) The Government of Ghana and the Bank of Ghana shall each contribute towards the initial capital of the Corporation.
- (2) The Corporation shall, not later than 30th September, 2019, insure deposits of existing banks and specialised deposit-taking institutions not otherwise excluded under section 13.
- (3) The Bank of Ghana shall, four months before the commencement of the Scheme, notify the Corporation of any bank or specialised deposit-taking institution that the Bank of Ghana has classified as
 - (a) a distressed financial institution; or
 - (b) not fulfilling the minimum capital requirements as stipulated by the Bank of Ghana.
- (4) An ineligible bank or specialised deposit-taking institution may be admitted into the Scheme when the conditions of ineligibility are remedied.
- (5) A bank or specialised deposit-taking institution that does not comply with the standards for membership of the Scheme required under this Act shall undertake a mandatory merger or amalgamation or be closed down by the Bank of Ghana.
- (6) A member of the Scheme shall pay the required initial premium, before the commencement of the Scheme.
- (7) In addition to subsection (6) each institution shall pay a quarterly premium as specified in subsection (3) of section 15."

Date of Gazette Notification: 4th May, 2018.